



General Assembly

**Substitute Bill No. 389**

February Session, 2004

\* SB00389APP 042004 \*

**AN ACT AUTHORIZING REFERENDUM CONTESTS AND COMPLAINTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2004*) Any person (1) claiming to  
2 have been aggrieved by any ruling of any election official in  
3 connection with a referendum, (2) claiming that there has been a  
4 mistake in the count of votes cast for a referendum, or (3) claiming to  
5 be aggrieved by a violation of any provision of section 9-355, 9-357 to  
6 9-361, inclusive, as amended, 9-364, 9-364a or 9-365 of the general  
7 statutes in the casting of absentee ballots at a referendum, may bring a  
8 complaint to any judge of the Superior Court for relief from such  
9 ruling, mistake or violation. In any action brought pursuant to the  
10 provisions of this section, the complainant shall send a copy of the  
11 complaint by first class mail, or deliver a copy of the complaint by  
12 hand, to the State Elections Enforcement Commission. If such  
13 complaint is made prior to such referendum, such judge shall proceed  
14 expeditiously to render judgment on the complaint and shall cause  
15 notice of the hearing to be given to the Secretary of the State and the  
16 State Elections Enforcement Commission. If such complaint is made  
17 subsequent to such referendum, it shall be brought within thirty days  
18 after such referendum to any judge of the Superior Court, in which the  
19 person shall set out the claimed errors of the election official, the  
20 claimed errors in the count or the claimed violations of said sections.

21 Such judge shall forthwith order a hearing to be held upon such  
22 complaint, upon a day not more than five nor less than three days  
23 from the making of such order, and shall cause notice of not less than  
24 three nor more than five days to be given to any person who may be  
25 affected by the decision upon such hearing, to such election official, the  
26 Secretary of the State, the State Elections Enforcement Commission and  
27 to any other party or parties whom such judge deems proper parties to  
28 the hearing, of the time and place for the hearing upon such complaint.  
29 Such judge shall, on the day fixed for such hearing and without  
30 unnecessary delay, proceed to hear the parties. If sufficient reason is  
31 shown, such judge may order any voting machines to be unlocked or  
32 any ballot boxes to be opened and a recount of the votes cast, including  
33 absentee ballots, to be made. Such judge shall, if such judge finds any  
34 error in the rulings of the election official or any mistake in the count  
35 of the votes, certify the result of such judge's finding or decision to the  
36 Secretary of the State before the tenth day succeeding the conclusion of  
37 the hearing. Such judge may order a new referendum or a change in  
38 the existing referendum schedule. Such certificate of such judge's  
39 finding or decision shall be final and conclusive upon all questions  
40 relating to errors in the ruling of such election officials, to the  
41 correctness of such count, and, for the purposes of this section only,  
42 such claimed violations, and shall operate to correct the returns of the  
43 moderators or presiding officers, so as to conform to such finding or  
44 decision, except that this section shall not affect the right of appeal to  
45 the Supreme Court and it shall not prevent such judge from reserving  
46 such questions of law for the advice of the Supreme Court as provided  
47 in section 9-325 of the general statutes. Such judge may, if necessary,  
48 issue a writ of mandamus, requiring the adverse party and those  
49 under such judge to deliver to the complainant the appurtenances of  
50 such office, and shall cause such judge's finding and decree to be  
51 entered on the records of the Superior Court in the proper judicial  
52 district.

This act shall take effect as follows:

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| Section 1 | <i>July 1, 2004</i> |
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**GAE**      *Joint Favorable Subst.*

**JUD**      *Joint Favorable*

**APP**      *Joint Favorable*